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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,963	11/01/2004	Egbert Schoela	260188US0PCT	8034
22850 7590 08/29/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER JOY, DAVID J	
			ART UNIT 1794	PAPER NUMBER
			NOTIFICATION DATE 08/29/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EGBERT SCHOELA,
GERALD MOLNAR,
GERD HAMPL,
PETER SEELMANN
and
MOJMIR RUZICKA

Application 10/510,963
Technology Center 1700

Mailed: August 28, 2008

Before DALE M. SHAW *Chief Appeals Administrator*.

SHAW, *Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on April 8, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal.

Accordingly, the application is herewith being electronically returned to the

examiner. The matters requiring attention prior to docketing are identified below:

APPEAL BRIEF

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed July 19, 2007. The “Summary of Claimed Subject Matter” appearing on page 2 of the Appeal Brief is deficient because it does not contain

[a] concise explanation of the invention defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters

as required by 37 CFR § 41.37(c)(1)(v) (2007). Correction is required.

EXAMINER’S ANSWER

In response to the Appeal Brief filed July 19, 2007, an Examiner’s Answer was mailed on October 2, 2007.

Section 1207.02 of the Manual of Patent Examining Procedure

(MPEP) (8th Ed., Rev. 6, September 2007) states:

Requirements for Examiner's Answer

The examiner's answer is required to include, under Appropriate headings, in the order indicated, the Following items:

. . . .

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Page 12 of the Examiner's Answer states that

[c]laim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okeiko in view of Imperial, as applied to Claim 10 above, and further evidenced by the International Publication of Schoela et al. (WO 01/56784). For purposes of this office action, all citations are to the U.S. Patent equivalent (6,726,970 and shall hereinafter be referred to as "Schoela-'970").

However, it is noted that Patent No. 6,726,970 is not included under the listing for "Evidence Relied Upon." Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) for notification to appellants to submit a paper which corrects the "Summary of Claimed Subject Matter";

- 2) for consideration of said paper;
- 3) for submission of a PTOL-90 which corrects the “Evidence Relied Upon” section appearing on page 3 of the Examiner’s Answer mailed October 2, 2007; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS:psb

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